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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JASON ERIC BENSON,  
Plaintiff

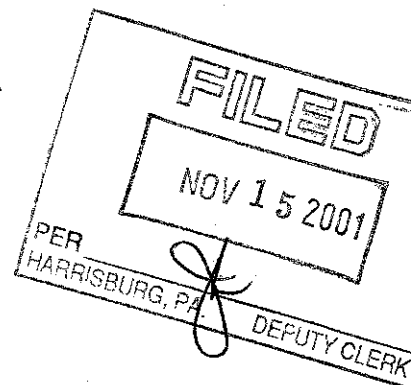
v.

THOMAS DURAN; BRUCE CLUCK;  
DEBRA HANKEY; JOHN JENNINGS;  
WILLIAM ORTH; RAE HIENTZELMAN;  
RONALD LONG and WILLIAM ELLIEN;  
BRITON SHELTON; WILLIAM J.  
STEINOUR AND ADAMS COUNTY  
PRISON  
Defendants

CIVIL ACTION

NO. 1:00-CV-01229

JURY TRIAL DEMANDED



**MOTION OF THOMAS DURAN, BRUCE CLUCK, DEBRA HANKEY, JOHN  
JENNINGS, WILLIAM ORTH, RAY HEINTZELMAN, BRITON SHELTON AND ADAMS  
COUNTY PRISON FOR SUMMARY JUDGMENT**

AND NOW, come Defendants Thomas Duran, Bruce Cluck, Debra Hankey, John Jennings, William Orth, Ray Heintzelman, Briton Shelton and Adams County Prison (collectively referred herein as the "Adams County Defendants"), by their attorneys, Thomas, Thomas & Hafer, LLP, and move for summary judgment based upon the following:

1. This is a pro se prisoner action arising out of a number of incidents and events that occurred while Jason Benson was incarcerated in the Pennsylvania State Correctional System. The two specific incidents pertaining to the Adams County Defendants occurred on August 27, 1999, and August 30, 1999.

2. The Plaintiff alleges that on August 27, 1999, excessive force was used against him when he was hit with pepper spray by members of the prison staff after he was asked to

comply with mandatory prison strip search procedure. Mr. Benson asserts that the conduct of the prison staff violated the Eighth Amendment prohibition against cruel and unusual punishment.

3. Mr. Benson also asserts that on August 30, 1999, Lieutenant William Orth was deliberately indifferent to his serious medical needs when he suffered a seizure while being held in E Block of the Adams County Prison.

4. As to the August 27, 1999 incident, the Adams County Defendants assert that there is no genuine issue of material fact and that Mr. Benson was not subjected to cruel and unusual punishment. Instead, the undisputed evidence of record clearly demonstrates that Mr. Benson refused to comply with a mandatory prison policy after repeated requests for compliance and only after all reasonable efforts were exhausted did the prison authorize the use of minimal force in a good faith effort to maintain discipline in the prison.

5. Under the circumstances presented on August 27, 1999, the use of force was justified and necessary. Moreover, Mr. Benson suffered diminimus, transient injuries, the force employed was the minimal force available to the prison staff and was specifically tailored to restore order and enforce mandatory prison guidelines.

6. Alternatively, the prison staff has qualified immunity from Plaintiff's claims.

7. As for the incident of August 30, 1999, the Adams County Defendants respectfully submit that there are no genuine issues of material fact on the question of whether the prison or its staff were deliberately indifferent to a serious medical need of Mr. Benson.

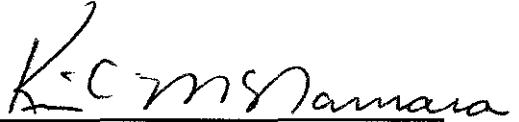
8. The undisputed evidence of record establishes that the prison staff responded to Mr. Benson's apparent illness within constitutionally acceptable limits and that Mr. Benson did, in fact, receive competent and adequate care at a local hospital.

9. Additionally, Adams County Prison is not a "person" subject to suit under the civil rights laws.

WHEREFORE, the Adams County Defendants respectfully request that summary judgment be entered in their favor and that all claims pleaded against them be dismissed with prejudice.

Respectfully submitted,

**THOMAS, THOMAS & HAFFER, LLP**

By: 

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Attorneys for Defendants

DATE: 11/15/01

**CERTIFICATE OF SERVICE**

I, Kevin C. McNamara, Attorney for Thomas, Thomas & Hafer, LLP, hereby certify that a copy of the foregoing document was served upon the following, by enclosing a true and correct copy in an envelope addressed as follows, postage prepaid:

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By: *K.C. McNamara*  
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*11/15/01*

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